

ITEL

IteI Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000

December 22, 1987

RECORDATION NO. 9050-~~14~~ H
FEB 14 1988

DEC 28 1987 - 11 10 AM

Hon. Noreta R. McGee
Secretary

Interstate Commerce Commission
Washington, DC 20423

INTERSTATE COMMERCE COMMISSION

Re: Amendment No. 1 dated November 24, 1987, to the Lease Agreement dated January 2, 1976, between SSI Rail Corp. and Green Mountain Railroad Corporation

Dear Ms. McGee:

On behalf of IteI Rail Corporation, the above instrument, in four (4) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$10 recordation fee.

Please record this Amendment under the Lease Agreement dated January 2, 1976, between SSI Rail Corp. and Green Mountain Railroad Corporation which was filed with the ICC on October 21, 1977, under Recordation No. 9050.

The parties to the aforementioned instrument are listed below:

IteI Rail Corporation (Lessor)
55 Francisco Street
San Francisco, California 94133

Green Mountain Railroad Corporation (Lessee)
Box 498
Bellows Falls, Vermont 05101

This Amendment adds to the Lease Agreement twenty-five (25) 50'6", 70-ton, Plate B, XM boxcars bearing reporting marks GMRC 600-649.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

Patricia Schumacker

Patricia Schumacker
Legal Department

PS/

Enclosures
cc: Marianne Ledda

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY
Patricia Schumaker
Itel Rail Corporation
55 Francisco Street
San Francisco, CA 94133

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/28/87 at 11:00AM, and assigned recordation number(s) 15148-G, 8246-N & 9050-G H

Sincerely yours,

Narta L. McEneaney

Secretary

Enclosure(s)



**Itel Rail Corporation
Interoffice Correspondence**

DATE: November 30, 1987

TO: Pat Schumacker

FROM: Marianne Ledda *ml*

SUBJECT: ICC Filing

The following document is to be filed with the ICC:

Amendment No. 1 dated November 24, 1987 to the Lease Agreement dated January 2, 1976, between SSI Rail Corp. and Green Mountain Railroad Corporation

The pertinent recordation information is as follows:

<u>Documents</u>	<u>Recordation Nos.</u>	<u>Recordation Dates</u>
GMRC Lease	9050	10/21/77 1:05 PM

The equity and debt sources for the equipment involved are:

<u>Car Series</u>	<u>Equity</u>	<u>Debt</u>
GMRC 1000-1024 (from AHW 2000-2099)	Itel Rail	Heller

Please contact me when the transmittal letter to the ICC has been completed.

Thank you.

Attachment

11/05/87

RECORDATION CO. FILED 1987

9050-# H
DEC 28 1987 - 11 00 AM

AMENDMENT NO. 1

INTERSTATE COMMERCE COMMISSION

THIS AMENDMENT NO. 1 (the "Amendment") to that certain Lease Agreement (the "Agreement") made as of January 2, 1976, between SSI Rail Corp. and GREEN MOUNTAIN RAILROAD CORPORATION ("Lessee"), is made this 24th day of November, 1987, by and between ITEL RAIL CORPORATION ("Lessor"), as successor in interest to SSI Rail Corp. and Lessee.

RECITALS:

- A. Lessor and Lessee are parties to the Agreement pursuant to which three hundred (300) boxcars bearing the reporting marks GMRC 300-399 and GMRC 600-799 (together with the boxcars listed on the Equipment Schedule attached hereto, the "Boxcars") were leased and delivered by Lessor to Lessee.
- B. The Boxcar bearing the reporting marks GMRC 386 was destroyed on September 8, 1979, while the Boxcars bearing the reporting marks GMRC 300-385 and GMRC 387-399 were sold to a third party upon the mutual concurrence of Lessor and Lessee on various dates commencing on November 15, 1983, through and including March 4, 1986.
- C. The Boxcars bearing the reporting marks GMRC 650-699 were terminated from the Agreement pursuant to the letter dated December 6, 1983, and each Boxcar bearing reporting marks from within the series GMRC 600-649 and GMRC 700-799 is to be terminated from the Agreement on the date such Boxcar is remarked to new reporting marks pursuant to the termination letters dated April 1, 1987 and June 30, 1987.
- D. Lessor desires to lease to Lessee and Lessee to lease from Lessor, twenty-five (25) Boxcars bearing the reporting marks GMRC 1000-1024.

NOW, THEREFORE, the parties hereto agree to amend the Agreement as follows:

1. All terms defined in the Agreement shall have the meanings defined therein when used in this Amendment.
2. Effective upon the full execution of this Amendment, the unnumbered Equipment Schedule which was fully executed on January 9, 1976 shall be deleted and replaced by Equipment Schedule No. 1.A. attached hereto; Equipment Schedule No. 3 shall be deleted in its entirety; and Equipment Schedule No. 4 attached hereto, which describes twenty-five (25) Boxcars bearing the reporting marks GMRC 1000-1024, shall be added to the Agreement.

THIS INSTRUMENT IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF HELLER FINANCIAL, INC. UNDER THE HELLER FINANCIAL, INC. LOAN AND SECURITY AGREEMENT WITH ITEL RAIL CORPORATION DATED AS OF SEPTEMBER 30, 1986.

3. With respect to the Boxcars described on Equipment Schedule No. 4 only, Subsection 2.A. of the Agreement shall be deleted and replaced in its entirety by:

" 2. Term

A. The term of the Agreement ("Initial Term") with respect to each Boxcar described on Equipment Schedule No. 4 shall commence on the date and at the location such Boxcar is remarked to GMRC reporting marks and shall expire on November 6, 1993."

4. Section 3 of the Agreement shall be deleted in its entirety and replaced by:

"3. Supply Provisions

A. Lessee hereby approves the specifications of the Boxcars delivered to it by Lessor. Lessor shall, at Lessor's initial expense and subject to the recovery of such expense pursuant to Subsection 6.B. hereinbelow, remark the Boxcars with the railroad markings of Lessee in compliance with all applicable regulations. Each Boxcar shall be deemed delivered and subject to the terms and provisions of this Agreement at 12 noon on the date and at the location such Boxcar is remarked ("Delivery"). After each Boxcar has been remarked, such Boxcar shall be moved to Lessee's railroad line at no initial cost to Lessee as soon as is consistent with mutual convenience and economy. Notwithstanding that Lessee may not have immediate physical possession of the Boxcars leased hereunder, Lessee agrees to pay the rent set forth in this Agreement. To move the Boxcars to Lessee's railroad line and to ensure optimal use of the Boxcars after the Initial Loading (as hereinafter defined), Lessor agrees to assist Lessee in monitoring Boxcar movements and, when deemed necessary by Lessee and Lessor, to assist in the issuance of movement orders with respect to such Boxcars to other railroad lines in accordance with Interstate Commerce Commission ("ICC") and Association of American Railroads ("AAR") interchange rules adopted by the AAR Mechanical Division, Operations and Maintenance Department ("Interchange Rules"). Lessee covenants that it shall subscribe to the Interchange Rules for the duration of this Agreement. If Lessor incurs expenses in having other railroads move Boxcars in accordance with this Section with Lessee's request or approval, except for any expenses incurred in the initial delivery of such Boxcars to Lessee's railroad line pursuant to this Section (which shall be addressed in Section 6.B. hereinbelow), Lessee shall reimburse Lessor for such expenses within ten (10) days of receipt of an invoice from Lessor. For the purposes hereof, the term "Initial Loading" as to each Boxcar, shall be the earlier to occur of either: 1) the date such Boxcar shall have been loaded off Lessee's railroad line with the first

H-

load of freight; or 2) the thirty-first (31st) day after such Boxcar is received on Lessee's lines pursuant to this Section.

B. Lessee shall load the Boxcars leased from Lessor prior to loading any boxcars leased by or assigned to Lessee from other parties subsequent to January 2, 1976, purchased by Lessee subsequent to January 2, 1976, or interchanged from other railroads. Lessee shall use its best efforts to maximize the off line utilization of the Boxcars.

C. During the term of this Agreement, Lessor may, at its expense, replace any or all of the Boxcars with similar boxcars upon prior written notice from Lessor to Lessee."

5. The following new sentence shall be added to Subsection 5.B. of the Agreement:

"Should the AAR Mechanical Inspection Department inspect and/or investigate Lessee's facilities and determine that restitution is due owners of rail cars repaired at such facilities, then Lessor shall be entitled to such restitution as per AAR Rule 120 for all rail cars owned or managed by Lessor that were repaired at such facilities, including the Boxcars."

6. The last sentence of such Subsection 5.D. shall be deleted and replaced by: "All insurance shall be taken out in the name of Lessee and shall name Lessor and any financing party designated by Lessor ('Financing Party'), and their respective assignees as additional named insureds and shall also list Lessor, Financing Party, and their respective assignees as loss-payees on the insurance policies."

7. With respect to the Boxcars described on Equipment Schedule No. 4 only, Section 6 of the Agreement shall be deleted in its entirety and replaced by:

"6. Rent

A. Definitions

(i) 'Eligible Lines' is defined as the railroad lines owned and operated by Lessee as of October 1, 1987. Unless otherwise agreed by Lessor and Lessee, any lines purchased by Lessee or added to the Eligible Lines during the Initial Term or any Extended Term are deemed to be the lines of another railroad company (a foreign road) for the purposes of determining Revenues (as defined in Subsection 6.A.(iii) hereinbelow).

(ii) 'Revenue Rates' is defined as the hourly and mileage car hire rates prescribed for excluded boxcars under the ICC's decision in ICC Ex Parte No. 346, Sub-No. 19 served September 12, 1986, set forth in the Appendix to such decision in paragraph (c)(3) of 49 C.F.R. 1039.14.

H

(iii) 'Revenues' is defined as the total revenues, calculated at the Revenue Rates, that are earned and collected or due for the use and handling of the Boxcars on all railroad lines other than the Eligible Lines, including, but not limited to, per diem and mileage, whether or not collected and received by Lessor and undiminished by any claimed abatement, reduction or offset caused by any action or failure of Lessee.

(iv) The 'Base Rent' is defined as one thousand four hundred forty-five dollars and forty cents (\$1,445.40) per Boxcar per calendar quarter. Such amount represents the Revenues which the Boxcars would have earned in the aggregate if the Boxcars had been on railroad lines other than Eligible Lines for ninety percent (90%) of the hours that such Boxcars were subject to the Agreement during such calendar quarter, with each Boxcar travelling eighty (80) miles per day. The Base Rent for any Boxcar which is not subject to the Agreement for an entire calendar quarter shall be prorated at fifteen dollars and eighty-four cents (\$15.84) per day for such Boxcar during such calendar quarter.

B. Lessor shall receive all Revenues earned by each Boxcar prior to its Initial Loading. Each Boxcar delivered pursuant to Subsection 3.A. shall become subject to the rental calculation under Subsection 6.C. upon the Initial Loading of such Boxcar; provided, however, that Lessor shall retain and be entitled to all Revenues earned in excess of the Base Rent by such Boxcar subsequent to such Initial Loading ('Excess Revenues'), including any amount otherwise due Lessee pursuant to Subsection 6.C.(ii) ('Lessee's Revenue Share'), until Lessee's Revenue Share shall have equalled Lessor's expenses for remarking and delivering the Boxcars to Lessee ('Delivery Expenses').

C. Lessee agrees to pay the following rent to Lessor for the use of the Boxcars:

(i) In the event Revenues earned in any calendar quarter or applicable portion thereof are equal to or less than the Base Rent, Lessor shall retain a sum equal to one hundred percent (100%) of the total Revenues.

(ii) In the event Revenues earned in any calendar quarter or applicable portion thereof exceed the Base Rent and Lessor has recovered the Delivery Expenses for all the Boxcars in the aggregate as set forth in Subsection 6.B. hereinabove, Lessor shall retain an amount equal to the Base Rent, plus an amount equal to fifty percent (50%) of Excess Revenues, and Lessee shall receive fifty percent (50%) of Excess Revenues.

H

- D. (i) In the event that Lessor shall receive or earn for the use of any Boxcars, revenues calculated at hourly or mileage car hire rates that are lower in amount than those specified for excluded boxcars as provided in Subsection 6.A (ii), as a result of any action or inaction by Lessee, Lessee shall pay to Lessor, within ten (10) days of Lessor's request, an amount equal to the difference between the Revenues such Boxcars would have earned at the Revenue Rates and the amount of revenues actually received or earned for such Boxcars.
- (ii) Upon any abatement, reduction or offset as described in Subsection 6.A. (iii), Lessee shall, within ten (10) days of Lessor's request, reimburse Lessor for such amounts.
- (iii) If, at any time during the Agreement, Lessee operates lines other than the Eligible Lines, then Lessee shall supply Lessor with records which distinguish the movement of each Boxcar on the Eligible Lines from the movement of such Boxcar on any other lines operated by Lessee.
- E. The calculations required in Subsection 6.C. shall be made within five (5) months after the end of each calendar year ('Final Calculations'). However, Lessor shall, prior to making such calculations, retain the Revenues and other payments received by it on behalf of Lessee. Further, since the parties desire to determine on a quarterly year-to-date basis the approximate amounts owed under Subsections 6.C. and 6.D.(i), Lessor shall within three (3) months after the end of each calendar quarter, calculate on a quarterly year-to-date basis the amount due both parties pursuant to this Section. Any amounts payable pursuant to the preceding sentence shall be paid promptly following such calculation, provided, however, that within twenty (20) days following the Final Calculation, any amount paid to either party in excess of the amounts required shall be refunded to the appropriate party.
- F. If, with respect to any calendar quarter or quarters, Revenues received by Lessor are less than one thousand four hundred five dollars and twenty-five cents (\$1,405.25) per Boxcar per calendar quarter, Lessor may, at any time, at its option and upon not less than thirty (30) days prior written notice to Lessee, terminate this Agreement as to such Boxcars as Lessor shall determine; provided, however, that Lessee may, at its option, within ten (10) days of receipt of such notice from Lessor, void such termination notice by paying to Lessor an amount equal to the difference between actual Revenues for such calendar quarter or quarters and the Base Rent for such calendar quarter or quarters.

H

- G. If, subsequent to the Initial Loading, any Boxcar remains on Lessee's railroad lines for more than seven (7) consecutive days, excluding those days such Boxcar is undergoing servicing, repair or alteration as provided for in Section 5 unless such servicing, repair or alteration was occasioned by the fault of Lessee, Lessor may, at its option and upon not less than twenty-four (24) hours prior written notice, terminate this Agreement as to such Boxcar and take possession of such Boxcar on Lessee's railroad tracks. If any such Boxcar has remained on Lessee's railroad tracks for more than seven (7) consecutive days because Lessee has not given preference to the Boxcars as specified in Subsection 3.B., Lessee shall be liable for and remit to Lessor an amount equal to the Revenues which would have been generated if such Boxcar had been in the physical possession and use of another railroad for the entire period during which such Boxcar is on Lessee's railroad line.
 - H. In the event destruction or damage beyond repair of a Boxcar has been reported in accordance with Rule 107 of the AAR Field Manual of the Interchange Rules and Car Hire Rules 7 and 8 of the AAR Code of Car Hire Rules and Interpretations-Freight, said destroyed Boxcar will be removed from the rental calculations of this Agreement on the date car hire ceased as set forth in the aforementioned Rules 7 and 8.
 - I. If any Boxcar, while in the possession of Lessee, is damaged to the extent that such damage exceeds the AAR Depreciated Value ('DV') for such Boxcar, Lessee shall notify Lessor within sixty (60) days following the date of the occurrence of such damage ('Damage Date'). If Lessee fails to notify Lessor within sixty (60) days of the Damage Date, Lessor has the right to engage an independent appraiser to inspect such Boxcar to determine the extent of such damage. Regardless of whether or not Lessee has notified Lessor of the damage pursuant to this Subsection, Lessee shall remit to Lessor an amount equal to the DV of such Boxcar within thirty (30) days of receipt of an invoice from Lessor.
 - J. Lessee shall not enter into any agreement with any other party with respect to the Boxcars ('Third Party Agreement(s)') without Lessor's prior written approval.
 - K. Lessor and Lessee agree to cooperate with and to assist each other in any reasonable manner requested to establish and pursue proper claims against parties responsible for loss or destruction of, or damage to, the Boxcars, provided, however, that this shall not affect their respective obligations under this Section 6."
8. Except as expressly modified by this Amendment, all terms and provisions of the Agreement shall remain in full force and effect.

9. This Amendment may be executed by the parties hereto in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.

ITEL RAIL CORPORATION

By: *DD Hayes*
Title: *President*
Date: *11/24/87*

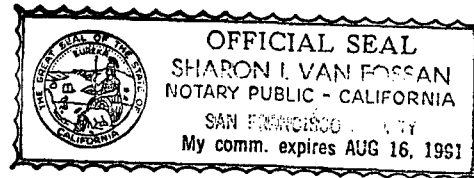
GREEN MOUNTAIN RAILROAD
CORPORATION

By: *Glenn E. Davis*
Title: *President*
Date: *11/11/87*

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 24th day of November, 1987, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of IteI Rail Corporation, that the foregoing Amendment No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Sharon L. Van Fossan
Notary Public



STATE OF Vermont)
) ss:
COUNTY OF Windham)

On this 11th day of November, 1987, before me personally appeared Glenn E. Davis, to me personally known, who being by me duly sworn says that such person is President of Green Mountain Railroad Corporation, that the foregoing Amendment No. 1 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Robert W. Caland
Notary Public

EQUIPMENT SCHEDULE NO. 1.A.

Itel Rail Corporation hereby leases the following Boxcars to Green Mountain Railroad Corporation subject to the terms and conditions of that certain Lease Agreement dated as of January 2, 1976.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions		Height	Doors Width	No. of Cars
				Inside Width				
XM	50' 70-Ton, Plate B Boxcar, Cushion Underframe	GMRC 600- 649	50'6"	9'6"		10'7"	10' Sliding	50

This Equipment Schedule replaces the unnumbered Equipment Schedule which was fully executed as of January 9, 1976.

ITEL RAIL CORPORATION

By: *OD Hayes*

Title: *President*

Date: *11/24/87*

GREEN MOUNTAIN RAILROAD CORPORATION

By: *Wm E Davis*

Title: *President*

Date: *11/11/87*

EQUIPMENT SCHEDULE NO. 4

Itel Rail Corporation hereby leases the following Boxcars to Green Mountain Railroad Corporation subject to the terms and conditions of that certain Lease Agreement dated as of January 2, 1976.

A.A.R. Mech. Desig.	Description	Numbers	Length	Dimensions		Height	Doors Width	No. of Cars
				Inside Width				
XM	50' 70-Ton, Plate B Boxcar, Nailable Steel Floor	GMRC 1000- 1024	50'6"	9'6"		10'7"	10' Sliding	25

ITEL RAIL CORPORATION

By: 

Title: President

Date: 11/24/87

GREEN MOUNTAIN RAILROAD CORPORATION

By: 

Title: President

Date: 11/11/87

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 24th day of November, 1987, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President of Itel Rail Corporation, that the foregoing Equipment Schedules No. 1.A. and No. 4 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

Sharon L. Van Fossan
Notary Public

OFFICIAL SEAL
SHARON L VAN FOSSAN
NOTARY PUBLIC - CALIFORNIA
SAN FRANCISCO CITY
My comm. expires AUG 16, 1991

STATE OF Vermont)
) ss:
COUNTY OF Windham)

On this 11th day of November, 1987, before me personally appeared Glenn E. Davis, to me personally known, who being by me duly sworn says that such person is President of Green Mountain Railroad Corporation, that the foregoing Equipment Schedules No. 1.A. and No. 4 were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

Robert W. Oland
Notary Public